

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 23508 of 1999

Between:

S.Banoji Rao, S/o. S.K.Murthy, AS-2, Wide Park Apartments,
Snehapuri, Nacharam, Hyderabad.

PETITIONER

AND

1 Electronics Corporation of India Ltd., Rep. By its Chairman and

Managing Director, Hyderabad.

2 The General Manager (P & A), Electronics Corporation of India

Ltd., Hyderabad.

RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ declaring that the action of the Respondents contained in Proceedings No.ECIL : PG:GM(P&A):F-VRS/4431 dated 02/11/1999 purporting to withdraw the acceptance of the voluntary retirement letter dated 04/10/99 relating to acceptance of voluntary retirement of the petitioner from the service of the Respondent corporation, is arbitrary, without jurisdiction and direct the Respondents to pay the voluntary retirement benefits to the petitioner consequent on the acceptance of voluntary retirement of the petitioner as per letter dated 04/10/99 of the 2nd Respondent and allow all consequential benefits.

Counsel for the Petitioner : MR.V.VENKATARAMANA

Counsel for the Respondents.: MR. P. NAGESWARA SREE.

The Court made the following :

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondents in issuing proceedings No. ECIL; PG ; GM (P&A) : F-VRS/4431 dated 2-11-1999 purporting to withdraw the acceptance of the voluntary retirement letter dated 04-10-1999 permitting the petitioner to voluntarily retire from the service of the respondent-corporation as arbitrary and illegal with a consequential direction to the respondents to accept the voluntary retirement of the petitioner as per letter dated 04-10-1999 and to allow all consequential benefits.

The petitioner while working as a Senior Manager in the 1st respondent corporation, offered to retire voluntarily as per the scheme introduced on 04-9-1999 by letter dated 30-9-1999. The said offer of the petitioner to retire voluntarily under the scheme was accepted by the respondents and letter dated 4-10-1999 was issued stating that the petitioner shall be relieved from service from 9-10-1999 subject to certain clearance etc., According to the petitioner, his name was also struck off from the rolls with effect from 10-10-1999. In fact, on 08-10-1999 itself, the 2nd respondent conducted exit interview and the petitioner handed over all the records and he had obtained no-due certificates from various departments. In spite of that, his benefits under the said voluntary retirement scheme were not released. Therefore, he made representations on 27-10-1999 and 30-10-1999. In stead of releasing those benefits under voluntary retirement scheme, having accepted the application of the petitioner, the respondents have issued the impugned proceedings dated 02-11-1999.

A Counter affidavit is filed by the respondents, wherein it is asserted that neither the petitioner was relieved from the service as stated by him on 09-10-1999 nor his name was struck off from the rolls of the corporation on 10-10-1999. In view of the impugned proceedings, it must be deemed that the petitioner has been continuing in the service of the corporation. Since the petitioner has not handed over certain files and has not prepared the documents as required by the department, the offer made by him and the acceptance of the said offer stood lapsed. Further, it is stated that there is no basis or any foundation in the allegation that the impugned order was issued by certain officers who are enimically disposed of to the petitioner. The said allegation is totally vague and baseless. The acceptance of the voluntary retirement from service stood lapsed when the petitioner failed to fulfill the condition imposed therein. It is further stated that the acceptance or non-acceptance of the Voluntary retirement scheme are issues pertaining to contractual obligations between the parties and not a fundamental right which can be agitated before this

Court invoking the jurisdiction under Article 226 of the Constitution of India. This writ petition is misconceived and is liable to be dismissed.

I have given earnest consideration to the respective contentions made by the learned counsel on either side and also perused the impugned proceedings and other material made available on record. There is no dispute as to the fact that a scheme was introduced on 04-9-1999 and the petitioner applied for voluntary retirement on 30-9-1999 and it was accepted on 04-10-1999 stating that he would be relieved on 09-10-1999 subject to certain formalities and clearance. It is asserted by the petitioner that he has submitted no due certificate and in fact, he attended the exit interview on 08-10-1999. It is seen that the petitioner addressed a letter dated 30-10-1999 pursuant to the record notes meeting held on 20-10-1999 stating that I & C Department in which the petitioner was working was decentralized in September, 1998 and attached to the individual projects, transferring the staff to various project departments. Moreover, the voluntary retirement of the petitioner has been accepted with effect from 9-10-1999 and clearance of all no due certificates have been obtained including exit interview and accordingly, he stood relieved from the services from 9-10-1999. He also stated that whatever information available with the projects with which he was associated has been provided to the respective projects much earlier on number of occasions and in fact the same is also available with respective site Engineers. The information pertaining to the 'EPABX' has also been detailed to the site supervisor concerned. He further stated that there is no personal information whatsoever in his exclusive knowledge and he is ready to convey any information if the same is within his knowledge. After this letter, the impugned proceedings were issued without examining as to what has been stated by the petitioner in his representation dated 30-10-1999.

Once the petitioner asserts that there is no other information that he is supposed to furnish, the notes of the meeting held on **20-10-1999** has no relevancy so far as the petitioner is concerned. Admittedly, the retirement application was accepted on 04-10-1999 and stood relieved with effect from 9-10-1999. Except denying the statement that the petitioner's name was not struck off from 10-10-1999, no material is placed before this Court to show the same. Even in the impugned proceedings, it is nowhere stated that he has been discharging duties continuously from 10-10-1999 till 02-11-1999 to enable the authorities to withdraw the acceptance of voluntary retirement. There is no answer from the respondents as to what the

petitioner was doing if he was not relieved of his duties. In fact, in his representation dated 30-10-1999 itself, he made it clear that he has already been relieved of his duties and requested to release the benefits.

Now we have reached a stage that even if the petitioner is asked to do certain acts which he was asked to do earlier, it is too late and it is more than five years now that the petitioner was allowed to retire from service. Therefore, no purpose would be served in asking the petitioner to comply with the formalities that were left over for the purpose of releasing the voluntary retirement benefits.

In the light of the above discussion, I am of the opinion that the impugned proceedings dated 2-11-1999 does not stand to scrutiny of law since the respondents have accepted the voluntary retirement application on 04-10-1999 and the petitioner stood relieved from 09-10-1999 and his name was struck off from 10-10-1999. There is no answer for the period from 10-10-1999 till 2-11-1999 what the petitioner was doing if he is not relieved of his duties. No action was taken against him. He was not asked to attend to duties.

In view of the above, the impugned proceedings are liable to be set aside, and accordingly set a side. The respondents are directed to accept the voluntary retirement of the petitioner with effect from 04-10-1999 and pay all the benefits as are eligible under the voluntary retirement scheme within a period of two months from the date of receipt of this order.

Accordingly, the writ petition is allowed.

Justice C.V.RAMULU

21-07-2005

Dvs

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Copies to:

- 1. The Chairman and the Managing Director, Electronics Corporation of India Ltd. Hyderabad.
- 2 The General Manager (P & A), Electronics Corporation of India Ltd., Hyderabad.
- 3. Two CD copies.

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HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.23508 OF 1999

21st July, 2005

